

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

Herman K. Williams, #304343,)	Civil Action No.: 8:08-1980-TLW-BHH
)	
Plaintiff,)	
)	
vs.)	<u>REPORT AND RECOMMENDATION</u>
)	<u>OF MAGISTRATE JUDGE</u>
)	
Jon Ozmint, South Carolina)	
Department of Corrections,)	
)	
Defendants.)	

The plaintiff brought this action seeking relief pursuant to Title 42, United States Code, Section 1983. On September 8, 2008, the defendants filed a motion for summary judgment. On September 11, 2008, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), the plaintiff was advised of the summary judgment procedure and the possible consequences if he failed to respond adequately. On October 9, 2008, plaintiff filed a motion requesting an extension of time to respond to the motion for summary judgment, and he was granted an extension until December 1, 2008. Despite the explanation in the *Roseboro* Order and the extension of time granted, the plaintiff has not responded to the motion.

As the plaintiff is proceeding *pro se*, the court filed a second order on December 4, 2008, giving the plaintiff through December 30, 2009, to file his response to the motion for summary judgment. The plaintiff was specifically advised that if he failed to respond, this action would be dismissed for failure to prosecute. The plaintiff elected not to respond.

Based on the foregoing, it appears the plaintiff no longer wishes to pursue this action. Accordingly, it is recommended that this action be dismissed *with prejudice* for lack of prosecution and for failure to comply with this Court's orders, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure and the factors outlined in *Chandler Leasing Corp.*

v. Lopez, 669 F.2d 919, 920 (4th Cir.1982). See *Ballard v. Carlson*, 882 F.2d 93 (4th Cir. 1989).

s/Bruce H. Hendricks
United States Magistrate Judge

January 8, 2009

Greenville, South Carolina Carolina